Supreme Court, U.S.
FILED
MAY 10 1980
MICHAEL RODAK, JR., CLERK

In The

Supreme Court of the United States

79-1790

October Term, 1979

No.

LEWIS WATSON and SHIZUKO WATSON, h/w,

Petitioners,

vs.

COLLEX, INC.,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

RICHARD A. JAMES
Attorney for Petitioners
of PRODOEHL & JAMES
9 West Front Street
Media, Pennsylvania 19063
(215) 565-4747

3428
LUTZ APPELLATE PRINTERS, INC.
Law and Financial Printing
South River, N.J. (201) 257-6850 | New York, N.Y. (212) 840-9494 | Philadelphia, Pa. (215) 563-5587 | Washington, D.C. (202) 783-7288

TABLE OF CONTENTS

Page

Opinions Below 2

Jurisdiction 2

Question Presented 2

Statement of Case 2

Reason For Granting the Writ:

Certiorari should be granted to resolve conflicts and principle among the various district courts. 5

Conclusion 9

TABLE OF CITATIONS

Cases Cited:

Black v. Magnolia Liquor Co., 78 S. Ct. 106, 355 U.S. 24, 2 L. Ed. 2d 5 (1957) 6

Iacoponi v. Plisko, 412 Pa. 576, 195 A.2d 362 (1913) 8

Monrosa v. Carbon Black Exports, Inc., 79 S. Ct. 710, 359 U.S. 180, 3 L. Ed. 2d 723, rehearing denied, 79 S. Ct. 1115, 359 U.S. 999, 3 L. Ed. 2d 986 (1959) 5

Ross v. Moffitt, 94 S. Ct. 2437, 417 U.S. 600, 41 L. Ed. 2d 341 (1974) 6

Schine v. Schine, 254 F. Supp. 986 (F.D. New York 1966) .. 8

Three Rivers Motor Co. v. Ford Motor Co., 522 F.2d 885 (3d Cir. 1975) 6

Contents

Page

Undersea Engineering & Const. Co. v. Int. Telephone & Telegraph, 429 F.2d 543 (9th Cir. 1970) 7

W.R. Grimshaw Co. v. Nevil C. Withrow Co., 248 F.2d 896 (8th Cir. 1957) 7

Statutes Cited:

28 U.S.C.A. §1254(1) 2

28 U.S.C.A. §1332 and §1441 2

APPENDIX

Appendix A — Opinion of the United States Court of Appeals For the Third Circuit Dated February 14, 1980 ... 1a

Appendix B — Judgment of the United States District Court For the Eastern District of Pennsylvania Dated July 12, 1979 ..... 3a

Appendix C — Journal Entry of Judgment of the United States District Court For the Eastern District of Pennsylvania 11a

In The

Supreme Court of the United States

October Term, 1979

No.

LEWIS WATSON and SHIZUKO WATSON, h/w,

Petitioners,

vs.

COLLEX, INC.,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

TO THE HONORABLE, THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Lewis Watson and Shizuko Watson, his wife, the petitioners herein, pray that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Third Circuit entered in the above entitled case on February 14, 1980.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Third Circuit is unreported and is printed in Appendix A hereto, *infra,* at 1a. The judgment of the United States District Court for the Eastern District of Pennsylvania is printed in Appendix B hereto, *infra,* at 3a. The journal entry of judgment of the United States District Court for the Eastern District of Pennsylvania is printed in Appendix C hereto, *infra,* at 11a.

JURISDICTION

The judgment of the United States Court of Appeals for the Third Circuit (Appendix A, *infra,* at 1a) was entered on February 14, 1980. The jurisdiction of the Supreme Court of the United States is invoked pursuant to 28 U.S.C.A. §1254(1).

QUESTION PRESENTED

Where fraud and or misrepresentation is used to induce a party to enter into a contract, does that fraud so permeate the transaction as to taint and invalidate any subsequent dealings in the nature of a release which was executed under duress?

STATEMENT OF CASE

This petition for writ of certiorari is from the judgment order of the United States Court of Appeals for the Third Circuit entered on February 14, 1980, affirming the decision and order entered by District Judge Joseph L. McGlynn on July 16, 1979. Said order granting defendant's motion to dismiss plaintiff's claim for failure to state a claim upon which relief can be granted.

The United States District Court for the Eastern District of Pennsylvania had original jurisdiction over this matter, based upon diversity of citizenship, 28 U.S.C.A. §§1332, 1441.

Plaintiffs being citizens of the State of Maryland and the defendant being a corporation operating and existing under the laws of the Commonwealth of Pennsylvania. The amount in controversy was forty-five thousand dollars ($45,000) which exceeded the statutory minimum.

The nature of this case is an action in assumpsit brought by the plaintiffs against the defendant for fraud and misrepresentation in inducing plaintiffs to invest their monies in the purchase of a Collex (collision experts) franchise.

Subsequent to filing the complaint, defendant filed a motion to dismiss plaintiffs' claim for failure to state a claim upon which relief can be granted, or, in the alternative, defendant's motion to strike paragraph twenty-one (21) of the plaintiffs' complaint relating to damages for pain and mental anguish and illness.

The parties filed memorandum of law with the court and supported their respective positions. No oral argument was heard, and on July 16, 1979, District Judge Joseph L. McGlynn entered his memorandum decision and order granting defendant's motion to dismiss.

The facts in this case briefly are as follows:

In August of 1973, the plaintiffs who are residents of Colesville, Maryland, a suburb of Washington, D.C., purchased a franchise from the defendant, to operate an automobile body repair shop as a franchisee. This purchase was the direct result of material representations and negotiations made by the defendant in an effort to induce plaintiffs to purchase a franchise.

After plaintiffs entered into the Franchise Agreement, the defendant located the auto body shop in Point Pleasant, New Jersey. Subsequent to purchasing the Point Pleasant, New

Jersey facility, plaintiffs commenced operation of the business. It then became known to them for the first time that material misrepresentations and fraud had been made by the defendant concerning the amount of business this particular franchise was capable of producing and the actual costs of operating the business. As a direct result of these misrepresentations and fraud, plaintiffs were caused to suffer losses which increased on a weekly basis in spite of actions on their part to have the defendant help operate and run the franchise in a successful manner.

Based upon the initial fraud and misrepresentations, and the subsequent losses, plaintiffs were forced to enter into negotiations with the defendant, under duress, in an effort to attempt to mitigate the damages that they were incurring on a continuing basis.

As a result of these negotiations, the parties entered into a Buy-Back Agreement on the franchise, together with a Cancellation Agreement on the lease and the franchise. Each of these Agreements, containing a release provision. Additional problems developed concerning the Buy-Back Agreement which resulted in an Agreement which the defendant alleges acts as a complete release to any further liability on either party and should therefore effectively terminate the litigation.

It is plaintiffs' position that this subsequent Release Agreement does not act to terminate this litigation, since the plaintiffs were forced under economic duress, to enter into this Agreement in an effort to mitigate the damages that were sustained on a weekly basis due to the wilful, wanton, fraudulent and material misrepresentations which had been made by the defendant in initially inducing the plaintiffs to become a franchisee.

The district court rules that the initial fraud and misrepresentation does not act to taint the subsequent release of

that claim. The court went on to state that to accept the plaintiffs' position would mean that a claim for fraud or misrepresentation could not be compromised by the parties. The district court indicated that the position of the plaintiffs was inconsistent with the indisputable policy of the law to encourage settlements.

Finally, the district court held that plaintiffs' allegations of economic duress would fail and that the stress of continued economic loss was insufficient to establish the requisite duress.

The United States Court of Appeals for the Third Circuit apparently expressed no disagreement with the district court findings and affirmed their decision.

This case has not been before this Court previously and counsel is not aware of any other case presently pending before this Court or about to be presented in the near future which is in any way related to the instant matter.

REASON FOR GRANTING THE WRIT

Certiorari should be granted to resolve conflicts and principle among the various district courts.

This petition for certiorari should be allowed as a question of general importance involving whether or not initial fraud and misrepresentation by a party in inducing another to enter into a contract and where such fraud induces economic duress of a substantial magnitude, that the release entered into would also be tainted and therefore voidable.

This question is important not only to the litigants, but to the citizens as a whole and should be granted pursuant to the *Monrosa v. Carbon Black Exports, Inc.*, 79 S. Ct. 710, 359 U.S. 180, 3 L. Ed. 2d 723, *rehearing denied*, 79 S. Ct. 1115, 359 U.S. 999, 3 L. Ed. 2d 986 (1959).

Furthermore, this matter is not being requested for review solely upon the determination of the lower court, but on the factor of conflicts in principle among the various district courts and the overriding aspect of fraud and how it affects any transaction which it touches. It is therefore submitted that this case falls within those cases permitted by discretionary review as set forth in *Ross v. Moffitt*, 94 S. Ct. 2437, 417 U.S. 600, 41 L. Ed. 2d 341 (1974).

Finally, it is well settled that when there is a conflict in decisions from the different circuits, that the Supreme Court will grant certiorari to review that question. *See Black v. Magnolia Liquor Co.*, 78 S. Ct. 106, 355 U.S. 24, 2 L. Ed. 2d 5 (1957).

In the opinion entered by District Judge Joseph L. McGlynn and affirmed by the United States Third Circuit Court of Appeals, there has been the basic rule set forth that plaintiffs' argument concerning economic duress and its continuing affect upon the original contract and subsequent release is not of consequence.

The United States District Court held that to hold plaintiffs' view would mean that a claim for fraud or misrepresentation could not be compromised by the parties. This position was also followed by the court concerning the economic duress question.

In support of that position, the court cited *Three Rivers Motor Co. v. Ford Motor Co.*, 522 F. 2d 885-893 (1975) wherein they set forth:

> ". . .duress is not established merely by showing that the release was given under pressure of financial circumstances disclosed here. *C.F. Colonial Trust Co. v. Hoffstott*, 219 Pa. 497, 504, 69 A. 52 (1908); *Accord, Fabert Motors, Inc. v. Ford Motor Co.*, 355 F. 2d 888, 890-91 (7th Cir. 1966); *The Adonis*, 38 F.2d 743, 744 (3d Cir.

> 1930). Moreover, under Pennsylvania law where the contracting party is free to come and go and to consult with counsel, there can be no duress in absence of threats of actual bodily harm. *Carrier v. Wm. Penn Broadcasting Co.*, 426 Pa. 427, 430-31, 233 A.2d 519 (1967)." (Footnotes omitted.)

It is submitted that the law set forth by the district court is in direct conflict to the principles which have been recognized by other district courts in the United States.

In *W.R. Grimshaw Co. v. Nevil C. Withrow Co.*, 248 F. 2d 896 (8th Cir. 1957) the standards for challenging a release as invalid based upon economic coercion or duress were set forth as follows:

> "(1) That one side involuntarily accepted the terms of another;
> (2) That circumstances permitted no other alternatives; and
> (3) That said circumstances were the result of coercive acts of the opposite party." *See also, Undersea Engineering & Const. Co. v. Int. Telephone & Telegraph*, 429 F. 2d 543 (9th Cir. 1970).

These three elements were overlooked by the federal court and the court of appeals in their determination. Secondly, the case law cited fails to acknowledge the existence of these elements. The failure of the Third Circuit to acknowledge these elements set forth by the Eighth and Ninth Circuits constitutes a substantial conflict in principle among the federal courts. The Third Circuits' position only allows duress to be established if the plaintiff can show the existence of threats of actual bodily harm. There is a complete disregard for the economic coercion that may be present.

It is submitted that if petitioners were permitted to bring their case on to trial that they would be successful in establishing that they involuntarily accepted the terms of the release based upon the initial fraud and misrepresentation of Collex. These representations were such as to cause the petitioners to suffer serious economic losses on a continuing and escalating basis. This factor raises to the level necessary to establish that their actions were forced and not their own free will.

The second element can be clearly established when the facts show that there were no alternatives to the action taken. Financially, petitioners were suffering mounting losses by operating the franchise. To shut down or close the business, would not have stopped Collex from demanding their monthly franchise fee, rent, and miscellaneous expenses. Additionally, petitioners did not have the right to sell the franchise without approval of Collex. Franchise Agreement additional terms 2(b). Collex continued to control the action of petitioners both economically and practically from an operational standpoint. Therefore, there was no other alternative for the petitioners to turn to accept for the release in question.

The last element for determination is that the circumstances surrounding the execution of the release being a direct result of coercive acts of the opposite party. The allegations in the petitioners' complaint set forth specifically that Collex had taken substantial steps to commit a fraud and misrepresentation concerning this particular franchise which petitioners purchased.

The actions of Collex were such as to force petitioners to execute the release. Again, it is submitted that, "the initial fraud taints with illegality and invalidity anything its evil shadow darkens". *See Iacoponi v. Plisko,* 412 Pa. 576, 195 A. 2d 362 (1913).

Finally, in *Schine v. Schine,* 254 F. Supp. 986 (F.D. New York, 1966) the district court enumerated that when a plaintiff has brought suit and a defendant raises a release as an

affirmative defense, that the plaintiff has the right to assert that the defendant's alleged fraud, on which plaintiff's cause of action was based, fatally infected the release pled by defendant.

For the Supreme Court to resolve the discrepancies between the Third Circuit and the various other circuits in the country is of such overwhelming importance that it is therefore proper for your Honorable Court to grant petitioners' request for relief.

CONCLUSION

Wherefore, petitioners respectfully pray that a writ of certiorari be granted.

Respectfully submitted,

RICHARD A. JAMES
Attorney for Petitioners

APPENDIX A — OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT DATED FEBRUARY 14, 1980

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 79-2126

WATSON, LEWIS AND WATSON, SHIZUKO h/w,

Appellants,

vs.

COLLEX, INCORPORATED

Appeal from the United States District Court for the Eastern District of Pennsylvania

(D.C. Civil No. 79-0783)

Submitted Under Third Circuit Rule 12(6)
February 11, 1980
Before: ALDISERT, WEIS and HIGGINBOTHAM, *Circuit Judges.*

JUDGMENT ORDER

After consideration of all contentions raised by appellants, it is

ADJUDGED AND ORDERED that the judgment of the district court be and is hereby affirmed.

Costs taxed against appellants.

Appendix A - Opinion

BY THE COURT,

s/ Aldisert
Circuit Judge

Attest:

s/ Thomas F. Quinn
Thomas F. Quinn, Clerk

DATED: FEB 14 1980

Certified as a true copy and issued in lieu of a formal mandate on March 7, 1980.

Test: M. Elizabeth Ferguson

Chief Deputy Clerk, U.S. Court of Appeals
for the Third Circuit

APPENDIX B — JUDGMENT OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA DATED JULY 12, 1979

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LEWIS WATSON and SHIZUKO WATSON, h/w

v.

COLLEX, INC.

CIVIL ACTION NO. 79-783

FILED
Jul. 13, 1979
Michael E. Kunz, Clerk

MEMORANDUM OF DECISION

MC GLYNN, J. JULY 12th, 1979

Presently before the court is the motion of defendant, Collex, Inc., (Collex) to dismiss the complaint for failure to state a claim upon which relief can be granted or, in the alternative, defendant's motion to strike paragraph 21 of the complaint.

The allegations of the complaint will be accepted as true for the purposes of this motion and, as summarized by the plaintiffs, are as follows:

On August 29, 1973, the plaintiffs entered into an agreement with the defendant to operate an automobile body repair shop as a franchisee of the defendant. This purchase was a direct result of certain material representations made by the defendant to induce plaintiffs to purchase the franchise.

Appendix B - Judgment

After plaintiffs purchased and commenced operating the franchise, it became known to them for the first time that material misrepresentations had been made concerning the amount of business this particular franchise could do and the actual cost of doing business. As a result of these fraudulent misrepresentations, plaintiffs suffered losses that increased weekly in spite of efforts on their part to have defendant assist in the operation of the franchise.

In order to mitigate the losses which were being incurred on a continuing basis, plaintiffs entered into a Buy-Back Agreement which included a cancellation of the lease and franchise.

Further differences arose concerning the Buy-Back Agreement. Negotiations stemming from these differences resulted in the release which is at issue here. See Appendix.

In spite of the clear and explicit language releasing Collex from all claims of whatsoever nature arising out of the dealings between the parties, and particularly the original franchise agreement and the subsequent Buy-Back Agreement, the plaintiffs insist that the release is ineffective because:

1) the initial fraud permeates all subsequent dealings between the parties; and

2) the release was executed under duress.

Plaintiffs do not contend any fraud or misrepresentation in the inducement or the execution of the release itself. They contend only that the fraud practiced on them, which gave rise to their original claim, tainted the subsequent release of that claim. I cannot accept plaintiffs' view for to do so would mean that a claim for fraud or misrepresentation cannot be comprised by the parties. There is absolutely no support for such a proposition in the law. Indeed, it is inconsistent with the indisputable policy of the law to encourage settlements.

Plaintiffs' duress argument must also fail. They do not contend that physical coercion or intimidation was applied to induce the release, but that the stress of continued economic losses forced them to capitulate and sign the release. This kind of duress does not render a release null and void. As the Court stated in *Three Rivers Motors Company v. Ford Motor Company*, 522 F.2d 885-893 (1975):

> ". . . Duress is not established merely by showing that the release was given under pressure of the financial circumstances disclosed here. Cf. Colonial Trust Co. v. Hoffstot, 219 Pa. 497, 504, 69 A. 52 (1908); accord, Fabert Motors, Inc. v. Ford Motor Co., 355 F.2d 888, 890-91 (7th Cir. 1966); The Adonis, 38 F.2d 743, 744 (3d Cir. 1930). Moreover, under Pennsylvania law where the contracting party is free to come and go and to consult with counsel, there can be no duress in the absence of threats of actual bodily harm. Carrier v. Wm. Penn Broadcasting Co., 426 Pa. 427, 430-31, 233 A.2d 519 (1967)." (footnotes omitted).

The defendant's motion to dismiss will be granted.

Appendix B - Judgment

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LEWIS WATSON and SHIZUKO WATSON, h/w

v.

COLLEX, INC.

CIVIL ACTION NO. 79-783

O R D E R

AND NOW, this 12th day of JULY, 1979, upon consideration of the defendant's motion to dismiss, it is hereby

ORDERED that the said motion be and the same is hereby GRANTED.

BY THE COURT:

s/ Joseph L. McGlynn, Jr.
JOSEPH L. MC GLYNN, JR. J.

FILED
JUL 13 1979
MICHAEL E. KUNZ, Clerk
By: E.V., Dep. Clerk

A P P E N D I X

AGREEMENT OF RELEASE

THIS AGREEMENT entered into the 30th day of July, 1975, by and between LEWIS WATSON and SHIZUKO WATSON, his wife, previously of the State of New Jersey,

acting jointly and severally and hereinafter referred to as "FIRST PARTIES" and COLLEX, INC. and COLLEX PROPERTIES, INC. and COLLEX LEASING, INC., all Corporations of the Commonwealth of Pennsylvania and FRANK J. BRIGIDI, JR., acting jointly and severally and hereinafter referred to as "SECOND PARTIES".

W I T N E S S E T H:

WHEREAS, the parties have heretofore entered into a certain Franchise Agreement dated the 29th day of August, 1973, whereby the FIRST PARTIES became the LICENSEE of a certain Automobile Painting and Body Repair Business located at Route #35, Point Pleasant, New Jersey; and,

WHEREAS, the parties have heretofore cancelled the aforesaid Franchise Agreement and any and all Agreements related thereto which exist between the respective parties; and,

WHEREAS, by Agreement dated the Eighth day of October, 1974 COLLEX, INC. had purchased the aforesaid business; and,

WHEREAS, pursuant to and arising from the aforesaid Agreement for the purchase of the business and for various and diverse reasons litigation had ensued and there was thereby rendered a Judgment against COLLEX, INC.; and,

WHEREAS, the FIRST PARTIES and the SECOND PARTIES and their respective counsel have settled, discontinued and placed to an end all matters arising from the above recitals and all matters in regard to the aforesaid litigation; and,

WHEREAS, pursuant to the above-mentioned settlement COLLEX, INC. hereby tenders certain monies to the FIRST

PARTIES conditioned upon the execution of this Release and termination of all litigation and removal of any Judgment the FIRST PARTIES may have against COLLEX, INC.

NOW, THEREFORE, in consideration of the above recitals which are incorporated by this reference herein and made a part hereof and in consideration of the payment to the FIRST PARTIES by the SECOND PARTIES of the sum of FORTY ONE THOUSAND ($41,000.00) DOLLARS, receipt whereof is hereby acknowledged, the FIRST PARTIES do hereby release, remise, quit claim and forever discharge the SECOND PARTIES, its, his, her and their heirs, administrators, executors, successors and assigns from any and all manner of actions, causes of action, suits, debts, dues, sums of money, contracts, controversies, agreements, promises and demands whatsoever, both at law and in equity which against any of the SECOND PARTIES the FIRST PARTIES now have or ever had, and especially from all claims arising out of the aforesaid Franchise Agreement and from any and all claims arising under or pursuant to the Agreement dated the Eighth day of October, 1974, and from any other claims arising from the above recitals or by reasons of any other cause, matter or thing, whatsoever from the beginning of the world to the date of these Presents.

KNOW ALL MEN BY THESE PRESENTS, that the SECOND PARTIES, intending to be legally bound hereby, and in consideration of the above recitals which are incorporated by this reference herein, do hereby release, remise, quit claim and forever discharge the FIRST PARTIES, their heirs, administrators, executors, and assigns from any and all manner of actions, causes of action, suits, debts, dues, sums of money, contracts, controversies, agreements, promises and demands whatsoever, both at law and in equity, which against the said FIRST PARTIES they now have or ever had, and especially from all claims arising out of the aforesaid Franchise Agreement

and all claims arising under or pursuant to the Agreement dated the Eighth day of October, 1974, or for any other claim arising from the above recitals, or by reason of any other cause, matter or thing, whatsoever from the beginning of the world to the date of these Presents. SUBJECT, HOWEVER, to the payment by the FIRST PARTIES of any and all tax obligations, whether federal or state, and payment of any monies owing to any accounting firm whose services are necessary in determining any of the aforesaid tax obligations; EXCEPTING, ONLY, payment by the SECOND PARTIES of Sales Tax obligations in the aggregate amount of FIVE HUNDRED SEVENTY FOUR DOLLARS and EIGHTY THREE CENTS ($574.83) and such other taxes set forth on page two of Exhibit B*

IN CONSIDERATION of the payment by the SECOND PARTIES to the FIRST PARTIES and the mutual release of liability between the parties, any and all contracts, suits, debts, dues, or sums of money of whatsoever kind and nature which now or hereafter exist between the parties, and any and all claims, demands, and liability of any kind and character whatsoever that the FIRST PARTIES may have, are hereby discharged.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals the day and year first above written, intending to be legally bound hereby.

FIRST PARTIES:

WITNESSETH:

s/ Lewis D. Watson L.S.
LEWIS WATSON

s/ Edward Russell Johnston, Jr.

s/ Shizuko Watson L.S.
SHIZUKO WATSON,
his wife

---

* annexed to the agreement between the parties dated October 8, 1974.

Appendix B - Judgment

SECOND PARTIES:
COLLEX, INC.

ATTEST:

BY: Wayne G. Sniolda, V. Pres.

s/ Claudia Brigidi, Sec.

COLLEX PROPERTIES, INC.

ATTEST:

BY: Wayne G. Sniolda, V. Pres.

s/ Claudia Brigidi, Sec.

COLLEX LEASING, INC.

ATTEST:

BY: Wayne G. Sniolda, V. Pres.

s/ Claudia Brigidi, Sec.

WITNESSETH:

s/ Frank J. Brigidi, Jr.
FRANK J. BRIGIDI, JR.

s/ Joyce Volak

APPENDIX C — JOURNAL ENTRY OF JUDGMENT OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WATSON, LEWIS AND WATSON, SHIZUKO h/w
Plaintiffs

vs.

COLLEX, INCORPORATED
Defendants

CAUSE: Other Contract
28 USC §1332, 1441

PRODOEHL & WYDRZYNSKI
RICHARD A. JAMES, ESQ.
9 West Front St.
Media, Pa. 19063

(#3) PAUL N. SANDLER, ESQ.
1620 Locust St.
Phila., Pa. 19103

Date	Proceedings
3-2-79	Complaint, filed.
3-2-79	Summons Exit. (USM 285 attached)
3-2-79	"JURY TRIAL DEMANDED"
3-26-79	Summons returned, "On 3/12/79 served", filed.
4-18-79	Appearance of Paul N. Sandler, Esq. on behalf of deft., filed.

Appendix C - Journal Entry of Judgment

4-20-79	STIPULATION AND ORDER THAT THE DEFT. IS GRANTED AN EXTENSION OF TIME UNTIL 4/30/79, WITHIN WHICH TO ANSWER, PLEAD OR OTHERWISE RESPOND TO PLFF'S COMPLAINT, FILED.
5-2-79	DEFT'S MOTION TO DISMISS PLFFS' CLAIM FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED OR, IN THE ALTERNATIVE, DEFT'S MOTION TO STRIKE PARAGRAPH 21 OF PLFFS' COMPLAINT RELATING TO DAMAGES FOR PAIN AND MENTAL ANGUISH AND ILLNESS AND NOTICE, FILED.
5-16-79	Plffs' answers to deft's motion to dismiss etc., memorandum of law and certificate, filed.
7-13-79	MEMORANDUM MC GLYNN, J. AND ORDER DATED 7/12/79 THAT DEFT'S MOTION AND DISMISS IS GRANTED, FILED. 7/16/79 ENTERED & COPIES MAILED. JM
8-15-79	Plffs' notice of appeal received 8/15/79 at 12:45 a.m., filed. copies to: U.S.C.A. & Paul N. Sandler, Esq.
8-15-79	Copy of Clerk's notice to the U.S.C.A., filed. copies to: U.S.C.A., PAUL N. SANDLER, ESQ., RICHARD A. JAMES, ESQ., DAN SPITZ, JUDGE McGLYNN & ELIZABETH MENSCH

Appendix C - Journal Entry of Judgment

8-30-79	ORIGINAL RECORD TRANSMITTED TO U.S.C.A. (Pleading #3 not included) (79-2126)
3-10-80	Certified copy of judgment order U.S. Court of Appeals that judgment of this court is affirmed, filed.
3-10-80	Record on appeal returned.